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UNITED STATE DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION

LINDA LAM, individually and on behalf of all others similarly situated.) CASE NO. 2:15-CV-03725

Plaintiff,

VS.

CATHAY BANK, a California corporation, and DOES 1 through 10

Defendants.

CASE NO. 2:15-CV-03725

**PLAINTIFF'S RESPONSE TO
COURT'S ORDER TO SHOW CAUSE
RE SANCTIONS**

[HON. JOHN F. WALTERS presiding]

1 Plaintiff Linda Lam (“Plaintiff”) hereby files this Response to the Court’s Order to
 2 Show Cause dated June 11, 2015 as to why the Court should not issue sanctions for
 3 Plaintiff’s inadvertent failure to comply with Local Rule 6.1-2’s scheduling and notice
 4 requirements.

5 Central District Local Rule 6.1-2 requires that a “notice of motion shall be filed
 6 with the Clerk not later than twenty-eight (28) days before the date set for hearing.
 7 Plaintiff, however, inadvertently filed a motion only 21 days before the date set for
 8 hearing. Plaintiff’s failure to timely notice its Motion to Consolidate pursuant to Local
 9 Rule 6.1-2 was an inadvertent mistake.

10 On June 14, 2015 Plaintiff previously filed an Ex Parte Application for an order
 11 consolidating cases (the “Application”). The Application was made on an *ex parte* basis
 12 as the trial date in the Original Action (Case No. 2:14-cv-05499) is currently set for trial
 13 for July 7, 2015. Accordingly, if the Application was not granted on an *ex parte* basis, a
 14 ruling would not have been rendered until the eve of trial, thus mooted Plaintiff’s
 15 Application entirely. That same day, however, the Court denied Plaintiff’s *ex parte*
 16 Application on grounds that there was no showing to justify *ex parte* relief.

17 Plaintiff thereafter intended on revising and thereafter filing her *ex parte*
 18 *application* as regularly noticed motion, which would be filed on that same day. Plaintiff
 19 thus drafted her Motion to Consolidate (the “Motion”), with a hearing date based on a
 20 June 4, 2015 filing. Central District Local Rule 7-3, however, requires a moving party to
 21 meet and confer before filing any motion and prohibits the filing of any such motion until
 22 ten days after the parties meet and confer. In light of Local Rule 7-3, Plaintiff elected to
 23 file the Motion on June 8, 2015, thus allowing 10 days to pass after the parties’ initial
 24 meet and confer before filing her Motion. Unfortunately, due to a mistake, the hearing
 25 dates on the Motion were not subsequently changed to reflect the new filing date.
 26 Accordingly, Plaintiff’s failure to comply with Local Rules was not intentional, but rather
 27 due to an embarrassing, but nonetheless inadvertent mistake.

1 The Ninth Circuit has held that “we do not think that the imposition of financial
2 sanctions for mere negligent violations of the local rules is consistent with the intent of
3 Congress or with the restraint required of the federal courts in sanction cases. ‘Attorneys
4 should not be disciplined by financial reprisal for conduct attributable to mistake,
5 inadvertence or error of judgment.’ ” *Zambrano v. City of Tustin*, 885 F.2d 1473, 1480
6 (9th Cir. 1989); *see also Lopez v. Banuelos*, No. 1:11-CV-466 AWI JLT, 2013 WL
7 4815699, at *5 (E.D. Cal. Sept. 6, 2013) (“no monetary penalty may be imposed for a
8 violation of local rules unless the offending party has engaged in grossly negligent,
9 reckless, or willful conduct”), *citing to Couveau v. American Airlines, Inc.*, 218 F.3d
10 1078, 1081 (9th Cir.2000). Accordingly, Plaintiff requests that this Court not sanction
11 Plaintiff for her inadvertent failure to comply with Local Rule 6.1-2.

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DATE: June 15, 2015

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/s/ Pamela Tsao

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Pamela Tsao, attorney for Plaintiff
Linda Lam

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